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In the Supreme Court of the United States

OCTOBER TERM, 1994

UNITED STATES OF AMERICA, PETITIONER

v.

ALFONSO LOPEZ, JR.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

SUPPLEMENTAL BRIEF FOR THE UNITED STATES

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Pursuant to Rule 25.5 of the Rules of this Court, the United States submits this supplemental brief to inform the Court of recently enacted legislation relating to the question presented in this case.

This case presents the question whether 18 U.S.C. 922(q) (Supp. IV 1992), which prohibits the possession of firearms in and around primary and secondary schools, is a constitutional exercise of Congress's power under the Commerce Clause. In our petition for a writ of certiorari, we noted that a bill passed by the Senate in November 1993 "include[d] specific findings that the actions proscribed by Section 922(q) affect interstate commerce." Pet. 6 n.4. The petition explained that the House of Representatives had not passed a comparable provision, *ibid.*; we noted as well that "[e]ven if such a

provision is enacted into law * * * it will not resolve the conflict in the courts of appeals regarding the validity of prosecutions under the existing statute." *Ibid.* Our opening brief also alluded to the pendency of this legislative proposal. Gov't Br. 6 n.2.

On September 13, 1994, the President signed into law the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322. Section 320904 of that legislation amends 18 U.S.C. 922(q) (Supp. IV 1992) to include congressional findings regarding the effects upon interstate and foreign commerce of gun possession in and around schools. A copy of Section 320904 is included as an appendix to this brief.

Respectfully submitted.

DREW S. DAYS, III
Solicitor General

SEPTEMBER 1994

APPENDIX

Pub. L. No. 103-322, § 320904, 108 Stat. 1796, 2125 (1994), provides as follows:

GUN-FREE SCHOOL ZONES.

Section 922(q) of title 18, United States Code, is amended— .

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting after "(q)" the following new paragraph: "(1) The Congress finds and declares that—

"(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

"(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

"(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate;

"(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

"(E) while criminals freely move from State to State, ordinary citizens and foreign

visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

"(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

"(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

"(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves; even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

"(I) Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.".